IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.K.DENESAN

THURSDAY, THE 8TH FEBRUARY 2007 / 19TH MAGHA 1928

WP(C).No. 27050 of 2006(T)

PETITIONER:

PAVITHRAN K., S/O. GOPALAN K.,
PADINHARAMUTHUVATT, PURAMERI P.O.,
VATAKARA (VIA), KOZHIKODE DISTRICT.

BY ADV. SRI.THOMAS ABRAHAM
SRI.K.B.ARUNKUMAR

RESPONDENTS:
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1. **THE KERALA STATE HANDLOOM DEVELOPMENT CORPORATION, KANNUR, REPRESENTED BY ITS MANAGING DIRECTOR.**

2. **THE MANAGING DIRECTOR, KERALA STATE HANDLOOM DEVELOPMENT CORPORATION, KANNUR.**

3. **THE MANAGER ADMINISTRATION, HEAD OFFICE, KERALA STATE HANDLOOM DEVELOPMENT CORPORATION, KANNUR.**

4. **THE PUBLIC SERVICE COMMISSION, REPRESENTED BY ITS SECRETARY, OFFICE OF THE PUBLIC SERVICE COMMISSION, PATTOM, THIRUVANANTHAPURAM.**

BY ADV.SRI.A.K.JAYASANKAR NAMBIAR for R1 to R3
SRI.A.M.SHAFFIQUE
SRI.E.K.NANDAKUMAR
SRI.P.C.SASIDHARAN, SC, KPSC for R4

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 08/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.NO.27050/2006

APPENDIX

PETITIONER'S EXHIBIT:

EXT.P1: **COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE RESPONDENTS.**

/TRUE COPY/

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K.K. DENESAN, J.

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W.P.(C) No. 27050 OF 2006 T
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Dated this the 8th February, 2007

J U D G M E N T

The petitioner is a candidate included in the rank list published by the 4th respondent-Commission. He has approached this Court for a direction to the 1st respondent to report vacancies of Drivers to the 4th respondent-Commission for advice of candidates.

2. As per interim order passed on 16-10-2006 the 1st respondent reported 4 vacancies to the 4th respondent. This Court made it clear that the reporting will be provisional and subject to further orders of this Court and further that the 4th respondent-Commission need not advise candidates against the vacancies thus reported.

3. A counter affidavit has been filed on behalf of respondents 1 to 3. In paragraph 7 of the counter affidavit the vacancy position has been explained as follows:

> "This Respondent would submit that although 2 posts of Drivers are currently lying vacant in the Respondent Corporation, it needs to be mentioned that in 2006 the Corporation had sent a promotion policy to

> the Government for approval which contemplates the reservation of 2 posts of Drivers for promotion from the categories of Depot worker, Peons, Watchman, workers and Packers. The educational qualifications and experience contemplated for the promotional posts are also the same as those applicable for direct recruits. As already stated the 2006 promotion policy now pending with the Government has yet to be approved by the Government and if approved, can be considered for the purpose of filling up the 2 existing vacancies of Drivers in the Respondent Corporation. Thus it is on account of the fact that 10 out of the 12 posts of Drivers which are required in the Corporation have already been filled up by candidates advised by the Public Service Commission and the remaining 2 vacant posts of Drivers are kept vacant for accommodating the promotees from lower categories, if the promotion policy is approved by the Government, that this Respondent Corporation did not send any fresh notification reporting vacancy to the Public Service Commission. It is submitted that if the 2 posts contemplated under the promotion policy are excluded from the posts to be reported to the Public Service Commission, then there is at present no vacant post to be reported to the Public Service Commission. In the light of what is stated above it is submitted that the petitioner cannot claim any right to be advised to a vacant post of Driver in the Respondent Corporation and hence the Writ Petition ought to be dismissed by this Hon'ble Court as devoid of merit."

4. Counsel for the petitioner submits that the promotion policy has not so far been approved by the Government and therefore the existing vacancies shall be directed to be filled up by candidates from the rank

list.

5. As far as the two vacancies among the four already reported are concerned, I find merit in the contention of the counsel for the petitioner. There is no justification to keep unfilled the said two vacancies already occurred, anticipating the framing of a promotion policy. The said vacancies shall be filled up as per the law now in force. Having regard to the admitted facts and relevant circumstances, I am inclined to direct the 4th respondent-Commission to advise candidates from the rank list against 2 out of the 4 vacancies reported pursuant to the interim order dated 16-10-2006. The remaining 2 vacancies shall be treated as vacancies not due to be filled up by the 1st respondent, at any rate, by candidates included in the P.S.C. ranked list. The Commission shall advise the eligible candidates as expeditiously as possible.

The writ petition is disposed of as above.

K.K. DENESAN
JUDGE

jan/